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## 1 - Mercury clean up at DISD elementary nearly complete

WFAA TV, Dallas, Texas, 10/30/2012

<http://www.wfaa.com/news/health/Mercury-Cleanup-at-DISD-Elementary-Nearly-Complete-176456591.html>

Summary: The Environmental Protection Agency is still on the scene of a mercury spill at a Dallas elementary school. A student confessed to spilling mercury at Urban Park Elementary about two weeks ago. Monday, about 160 pairs of shoes were tested for possible contamination. 18 pairs tested positive for some exposure, according to EPA federal on-scene coordinator Gary Moore. Two pairs showed elevated levels of mercury on the soles.

## 2 - Community Gathers To Stop Water Contamination

KOSA TV, Midland, Texas, 10/30/2012

<http://www.cbs7kosa.com/news/details.asp?ID=38509>

Summary: MIDLAND- One West Texas community is battling water contamination, and state agencies are insuring this community stays safe. The U.S. Environmental Protection Agency held a community meeting for those affected by the ground water site contaminated with chromium. The EPA along with the Texas Commission on Environmental Quality and the Texas State Health Services were present to answer questions regarding the cleanup and safety of those living on the West County Road 112 Ground Water Site. The total length of the chromium plume is approximately 2 miles in length in the Ogallala aquifer. Currently the Texas Commission on Environmental Quality are treating the water with filters on water wells that are above the standard levels for consuming.

## 3 - Chemical leak: Airborne substance causes evacuation in Santa Teresa hazmat crisis

El Paso Times, 10/30/2012

[http://www.elpasotimes.com/ci\\_21887040/hazardous-materials-team-responding-santa-teresa-residents-advised](http://www.elpasotimes.com/ci_21887040/hazardous-materials-team-responding-santa-teresa-residents-advised)

Summary: SANTA TERESA -- A mysterious airborne substance made workers sick and caused a mass evacuation of Doña Ana County Industrial Park on Tuesday morning. Fewer than 200 people became ill but none suffered serious problems, officials said. Those affected were examined by paramedics from El Paso and Doña Ana County and then released. Students at Santa Teresa High School a few miles away were not affected, officials said. The New Mexico National Guard was called to the scene because officials on Tuesday had not figured out what caused people to get sick. Officials late Tuesday afternoon said the industrial park will remain closed, possibly into today and that the initial investigation focused on FoamEx, a company that produces foam fillings for cushions, mattresses and carpet. Officials said the investigation has moved beyond FoamEx into other buildings in the area.

## 4 - EPA Reviewing Two Air Pollution Rules To Minimize Impact on Small Businesses

BNA's Daily Environment Report, 10/31/2012

[http://news.bna.com/delN/DELNWB/split\\_display.adp?fedfid=28524770&vname=denotallissues&jd=a0d5d6c0u5&split=0](http://news.bna.com/delN/DELNWB/split_display.adp?fedfid=28524770&vname=denotallissues&jd=a0d5d6c0u5&split=0)

Summary: The Environmental Protection Agency is reviewing two air pollution rules to determine whether changes are warranted to minimize their economic impact on small businesses, according to a Federal Register notice to be published Oct. 31. The rules under review are emissions standards for heavy-duty vehicle engines and accompanying fuel sulfur restrictions, issued in 2001, and national emissions standards for hazardous air pollutants for reinforced plastic composites production, issued in 2003. EPA said it provided small fuel refiners with flexibility when it promulgated the heavy-duty engine and diesel sulfur requirements, but it will accept comment on the

rule's continuing impact. Similarly, EPA said it provided flexible compliance options under the reinforced plastic composites rule because 279 of 357 regulated facilities were small businesses. EPA also will accept comments on the continuing effect of the air toxics rule. As required by Section 610 of the Regulatory Flexibility Act, EPA will accept comments on the continued need for the rules, complaints about the rules, the complexity of the rules, the extent to which the rules overlap or conflict with federal, state, or local regulations, and whether technology, economic conditions, or other factors have changed since the rules' promulgation. In addition to the two air rules, EPA also is reviewing regulations and standards for concentrated animal feeding operations (see related story).

#### **5 - EPA Still Reviewing Information to Finalize Boilers Rule, Agency Tells D.C. Circuit**

**BNA's Daily Environment Report, 10/31/2012**

[http://news.bna.com/deln/DELNWB/split\\_display.adp?fedfid=28524761&vname=denotallissues&jd=a0d5d5r5q9&split=0](http://news.bna.com/deln/DELNWB/split_display.adp?fedfid=28524761&vname=denotallissues&jd=a0d5d5r5q9&split=0)

**Summary:** The Environmental Protection Agency has told a federal appeals court it was not able to finalize new emissions standards for boilers in the spring, as it intended, because the agency still is analyzing information it received after issuing the proposed rule nearly a year ago (U.S. Sugar Corp. v. EPA, D.C. Cir., No. 11-1108, status report filed 10/29/12). EPA in an Oct. 29 status report did not say when it would finalize the rule for boilers. The status report was filed with the U.S. Court of Appeals for the District of Columbia Circuit. EPA is trying to complete a rulemaking in which it is reconsidering national emissions standards for boilers issued in March 2011 under a court deadline. At the time, EPA said it would immediately begin reconsideration of those standards after the appeals court refused to give the agency the additional time it requested to work on the standards.

#### **6 - EPA Plans Review of CAFO Regulations To Assess Impact on Small Businesses**

**BNA's Daily Environment Report, 10/31/2012**

[http://news.bna.com/deln/DELNWB/split\\_display.adp?fedfid=28524763&vname=denotallissues&jd=a0d5d5r8q6&split=0](http://news.bna.com/deln/DELNWB/split_display.adp?fedfid=28524763&vname=denotallissues&jd=a0d5d5r8q6&split=0)

**Summary:** The Environmental Protection Agency plans to review Clean Water Act regulations on concentrated animal feeding operations to determine whether the rules should be retained, amended, or withdrawn if they significantly affect small businesses. In a notice scheduled for Oct. 31 publication, EPA said it would review the 2012 regulation, which clarifies that only those concentrated animal feeding operations that discharge are required to obtain National Pollutant Discharge Elimination System permits (77 Fed. Reg. 44,494; 51 DEN A-15, 3/16/11145 DEN A-8, 7/30/12). EPA will review the CAFO regulations along with two other Clean Air Act rules under Section 610 of the Regulatory Flexibility Act (see related story). Section 610 requires that an agency review a rule within 10 years of its promulgation to determine whether it has or will have a significant economic impact on a substantial number of small entities.

#### **7 - Air Quality Alert Issued Due to Smoke**

**Albuquerque Journal, 10/30/2012**

<http://www.abqjournal.com/main/2012/10/30/abqnewsseeker/air-quality-alert-issued-due-to-smoke.html>

**Summary:** Albuquerque's Environmental Health Department's Air Quality Division issued a health alert today due to the smoke from the Chaparral controlled burn in the Jemez Mountains that has elevated particulate matter levels. The alert is in effect until 4 p.m. today. The Chaparral controlled burn northwest of Jemez Springs continues today, with smoke drifting into Albuquerque. The light wind will likely continue to drift the smoke toward the city during the day. The City of Albuquerque Environmental Health Department recommends that all individuals take precautions when outdoors in areas when smoke is visible or can be smelled.

#### **8 - AEP-PSO's deal with EPA criticized**

**Tulsa World, 10/30/2012**

[http://www.tulsaworld.com/business/article.aspx?articleid=20121030\\_49\\_E1\\_Anindu47957&subjectid=49](http://www.tulsaworld.com/business/article.aspx?articleid=20121030_49_E1_Anindu47957&subjectid=49)

**Summary:** An industrial-size opponent of AEP-PSO's settlement with federal regulators over regional haze rules contends that the utility's deal was premature and will unnecessarily cost ratepayers billions of dollars over the long haul. Tom Schroedter and Scott Norwood, representing the Oklahoma Industrial Energy Consumers group,

said Monday that American Electric Power-Public Service Company of Oklahoma ditched a reasonable plan worked out in-state with fellow utility OG&E and state environmental officials. Instead, they said, AEP-PSO erred in favor of a costly agreement with the U.S. Environmental Protection Agency to shut down two coal-fired generation plans by 2026. "We're urging them to delay this," Norwood said in exclusive interview with the Tulsa World. The state's second largest utility filed testimony last month with the Oklahoma Corporation Commission asking for cost recovery methods to fund the environmental compliance plan. Both sides hope to start hearings by Feb. 26.

#### 9 - Researchers will take a deep look at Gulf seafood safety

Houston Chronicle, 10/30/2012

<http://www.chron.com/default/article/Researchers-will-take-a-deep-look-at-Gulf-seafood-3991634.php>

Summary: The Macondo well blowout on the floor of the Gulf of Mexico lays bare just how little scientists know about that great expanse of saltwater and its creatures, but in fishing communities from Florida to Louisiana, some people have vital questions of their own. Could hydrocarbons from the 2010 Deepwater Horizon explosion be building up in people through the seafood they commonly eat - brown shrimp, white shrimp, oysters, blue crab, redfish, speckled trout and mackerel - and what does it mean if they are?

#### 10 - Noxious weed fuels green-energy debate

Houston Chronicle, 10/31/2012

<http://fuelfix.com/blog/2012/10/31/noxious-weed-fuels-green-energy-debate/>

Summary: In the race to convert crops into energy, all eyes are on giant reed, a fast-growing and hardy grass species found throughout Texas and the southern United States. Yet, the very qualities that make the species, also known as arundo donax, attractive to the federal government as a renewable fuel source make it a noxious weed, capable of choking native plants, clogging rivers and streams and draining wetlands. Some scientists and environmentalists say the ecological and economic risks are greater than the reward and want the Environmental Protection Agency to reconsider a nearly finalized rule that would encourage farmers to grow giant reed and other invasive grasses for biofuels production.

#### 11 - Assumption Parish sinkhole consumes more land, trees

New Orleans Times-Picayune, 10/31/2012

[http://www.nola.com/politics/index.ssf/2012/10/assumption\\_sinkhole\\_consumes\\_m.html#](http://www.nola.com/politics/index.ssf/2012/10/assumption_sinkhole_consumes_m.html#)

Summary: Officials say a growing, 5.5-acre sinkhole in northern Assumption Parish swamps obbled up another strip of land on Tuesday. John Boudreaux, director of the parish Office of Homeland Security and Emergency Preparedness, tells The Advocate trees fell in with the collapse, but no one was injured. He said the collapsed area extended from a mat road that Texas Brine Co. of Houston has installed to clean trees, other vegetative matter and oil out the sinkhole to a point 80 feet north of the road.

#### 12 - Environmentalists Criticize 'Weight Of Evidence' In EPA SIP Efficiency Plan

Inside EPA, 10/30/2012

<http://insideepa.com/201210302414787/EPA-Daily-News/Daily-News/environmentalists-criticize-weight-of-evidence-in-epa-sip-efficiency-plan/menu-id-95.html>

Summary: Environmentalists are criticizing EPA's "weight of evidence" method for states to use in assessing air quality benefit from energy efficiency projects include in state implementation plans (SIPs), calling it "deeply troubling" as they say it does not meet Clean Air Act requirements for what can be included in SIPs for meeting EPA air standards. At a recent meeting of EPA's Clean Air Act Advisory Committee (CAAAC), one environmentalist told agency officials that if EPA allows states to use the approach in SIPs then environmental groups will likely file comments on those proposed SIP approvals criticizing the method. Adverse comment on a proposal could give the groups grounds to file lawsuits over the air plans in the event that the agency finalizes a plan relying on the approach. The dispute centers on a provision in EPA's recent guidance, or "roadmap," on how states can earn credit for including in their SIPs energy efficiency and renewable energy (EE/RE) projects that cut air pollution.

#### 13 - Former EPA Chief Al Armendariz Said Frackers Lit a Well on Fire, So the Frackers Lawyered Up

Dallas Observer, 10/30/2012

[http://blogs.dallasobserver.com/unfairpark/2012/10/former\\_epa\\_chief\\_al\\_armendariz.php](http://blogs.dallasobserver.com/unfairpark/2012/10/former_epa_chief_al_armendariz.php)

Summary: Range Resources, a company that fracks shale formations across America, wants controversial former EPA regional chief Al Armendariz to shut up about what happened in Parker County. The company's lawyer sent him a letter recently insisting that "(he) cease from making further false and disparaging comments against Range." Armendariz spoke at a recent Society of Environmental Journalists conference in Lubbock. He told attendees he had not seen any evidence to contradict an EPA finding that Range's fracking activities contaminated a nearby water well -- a claim that's at the center of a lengthy fight between the EPA, Range, the Texas Railroad Commission and a man whose well turned to fire.



## Mercury clean up at DISD elementary nearly complete



by JANET ST. JAMES

**WFAA**

Posted on October 30, 2012 at 1:24 PM

Updated yesterday at 5:26 PM

**DALLAS --** The Environmental Protection Agency is still on the scene of a mercury spill at a Dallas elementary school.

A student confessed to spilling mercury at Urban Park Elementary about two weeks ago.

Monday, about 160 pairs of shoes were tested for possible contamination. 18 pairs tested positive for some exposure, according to EPA federal on-scene coordinator Gary Moore. Two pairs showed elevated levels of mercury on the soles.

"And those families have already come in and brought their vehicles in, [because]

the kids, y'know, are getting in and out," Moore explained. "We tested those, the airspace is fine in those -- even along the carpet."

The EPA will follow up at the families' homes, to make sure mercury wasn't tracked inside.

The EPA said clean up inside the school is nearly complete. A second-floor stairwell has been decontaminated. Carpets Tuesday were being pulled up and cleaned.

Three siblings remain hospitalized after playing with a bottle of mercury they found on the railroad tracks several weeks ago. One admitted to spilling the quicksilver at Urban Park Elementary. Experts say the real danger was not at the school, but in the three kids' home where mercury levels tested high.

Mercury becomes dangerous to people when vaporized. EPA officials in charge of the cleanup say levels inside Urban Park are within normal levels.

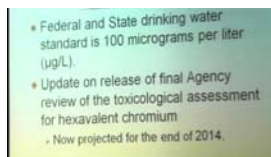
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## NEWS

[return to previous page](#)**Community Gathers To Stop Water Contamination 10/30/12**

Ashley Melnick  
amelnick@cbs7.com  
CBS 7 News  
October 30, 2012

MIDLAND- One West Texas community is battling water contamination, and state agencies are insuring this community stays safe.



The U.S. Environmental Protection Agency held a community meeting for those affected by the ground water site contaminated with chromium.

The EPA along with the Texas Commission on Environmental Quality and the Texas State Health Services were present to answer questions regarding the cleanup and safety of those living on the West County Road 112 Ground Water Site.

The total length of the chromium plume is approximately 2 miles in length in the Ogallala aquifer.

Currently the Texas Commission on Environmental Quality are treating the water with filters on water wells that are above the standard levels for consuming.

Vince Malott, the Site Project Manager with the EPA, said current investigations suggest the chromium is coming from an old plastic company.

The Texas Department of State Health Services officials said high levels of chromium exposure could lead to breathing problems and allergic reactions.

Mallott said he hopes a decision for cleanup treatment will be finalized by August of 2014.



## **Chemical leak: Airborne substance causes evacuation in Santa Teresa hazmat crisis**

By Aaron Bracamontes / El Paso Times El Paso Times  
Posted:

ElpasoTimes.com

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>> Photos: Hazmat situation in Santa Teresa

SANTA TERESA -- A mysterious airborne substance made workers sick and caused a mass evacuation of Doña Ana County Industrial Park on Tuesday morning.

Fewer than 200 people became ill but none suffered serious problems, officials said.

Those affected were examined by paramedics from El Paso and Doña Ana County and then released. Students at Santa Teresa High School a few miles away were not affected, officials said.

The New Mexico National Guard was called to the scene because officials on Tuesday had not figured out what caused people to get sick.

Officials late Tuesday afternoon said the industrial park will remain closed, possibly into today and that the initial investigation focused on FoamEx, a company that produces foam fillings for cushions, mattresses and carpet.

Officials said the investigation has moved beyond FoamEx into other buildings in the area.

Several warehouse employees began feeling ill and having difficulty breathing at about 8:30 a.m. outside a building in the 2500 block of Airport Road.

The Doña Ana County Fire and Emergency Service Department Hazardous Materials Response Team was dispatched to area and began evacuating people in a one-mile radius, said Doña Ana County Sheriff's Office spokeswoman Kelly Jameson.

"We don't have any spill reports right now," Jameson said. "We are working to determine the cause of this situation. What we are going to do is conduct some air-quality testing that will hopefully help us to determine what we are dealing with right now."

By Tuesday afternoon, the Las Cruces Fire Department's hazmat team and the civil-support team from the New Mexico National Guard were deployed to the area.

National Guard spokesman Col. Michael Montoya said the civil-support team is a hazmat specialist team.

"They test chemicals or substances that other responders can't test," Montoya said. "We have some of the most sophisticated equipment."

Montoya said the civil-support team is usually called in to assist other agencies.

An El Paso Elite Medical Transport ambulance bus, one of 13 in Texas, evacuated 20 people at a time to a set-up command center at Santa Teresa High School by the American Red Cross.

Paramedics treated people who were complaining of light-headedness, nausea and dizziness. After three hours, all of the evacuees were cleared and released.



None of the workers who were evacuated were taken to the hospital.

There were no reports of sickness from the nearest neighborhood at McNutt Road and the Pete V. Domenici Highway, officials said.

New Mexico State Police, Doña Ana County sheriff's deputies and Border Patrol agents blocked off Airport Road at the Pete V. Domenici Highway, just miles away from the Santa Teresa Port of Entry, which remained open.

The Mesilla Valley Regional Dispatch Authority also began calling residents and businesses within two miles of the incident to warn them about the situation.

Residents were asked to stay inside, seal doors and windows and turn off air conditioners and heating systems so they would not draw air inside.

The Doña Ana County Airport was also closed and evacuated.

A long line of 18-wheelers were parked along the Pete V. Domenici Highway; most drivers said they had deliveries to make at Industrial Park.

From about half-mile away, you could see lines of emergency vehicles parked along the road that leads into the park.

Police and firefighters were seen discussing the situation, but nothing could be seen where the investigation was taking place.

Aaron Bracamontes may be reached at [abracamontes@elpasotimes.com](mailto:abracamontes@elpasotimes.com); 546-6156. Follow him on Twitter @AaronBrac.



## Daily Environment Report™

Source: Daily Environment Report: News Archive > 2012 > October > 10/31/2012 > News > Air Pollution: EPA Reviewing Two Air Pollution Rules To Minimize Impact on Small Businesses

210 DEN A-11

### **Air Pollution**

### **EPA Reviewing Two Air Pollution Rules To Minimize Impact on Small Businesses**

*By Jessica Coomes*

The Environmental Protection Agency is reviewing two air pollution rules to determine whether changes are warranted to minimize their economic impact on small businesses, according to a *Federal Register* notice to be published Oct. 31.

The rules under review are emissions standards for heavy-duty vehicle engines and accompanying fuel sulfur restrictions, issued in 2001, and national emissions standards for hazardous air pollutants for reinforced plastic composites production, issued in 2003.

EPA said it provided small fuel refiners with flexibility when it promulgated the heavy-duty engine and diesel sulfur requirements, but it will accept comment on the rule's continuing impact.

Similarly, EPA said it provided flexible compliance options under the reinforced plastic composites rule because 279 of 357 regulated facilities were small businesses. EPA also will accept comments on the continuing effect of the air toxics rule.

As required by Section 610 of the Regulatory Flexibility Act, EPA will accept comments on the continued need for the rules, complaints about the rules, the complexity of the rules, the extent to which the rules overlap or conflict with federal, state, or local regulations, and whether technology, economic conditions, or other factors have changed since the rules' promulgation.

In addition to the two air rules, EPA also is reviewing regulations and standards for concentrated animal feeding operations (see related story).

### **Regulatory Flexibility Act Reviews**

Section 610 of the Regulatory Flexibility Act requires that agencies review, 10 years after promulgation, rules that have a significant economic impact on a substantial number of small entities.

After considering public comments, EPA said it will keep the rules, amend them, or withdraw them.

"We encourage small entities to provide comments on the need to change these rules, and in particular, how the rules could be made clearer, more effective, or if there is need to remove conflicting or overlapping requirements with other Federal or State regulations," EPA said.

In a Jan. 18, 2001, final rule, EPA set emissions standards for heavy-duty engines and vehicles, and it reduced the level of sulfur permitted in diesel fuel (66 Fed. Reg. 5002).

EPA said the rule provided flexibility by allowing small refiners with simultaneous gasoline sulfur requirements to sequence sulfur-reduction technology upgrades in the most advantageous way.

### **Rule Called 'Tremendous Success.'**

Frank O'Donnell, president of Clean Air Watch, told BNA Oct. 30 that the review appears to be routine and that the underlying rule "has been a tremendous success."

The April 21, 2003, air toxics rule for reinforced plastic composites production regulates the manufacturing of products with thermoset resins and gel coats (68 Fed. Reg. 19,375).

Because facilities that are regulated by the rule largely are small businesses, EPA said it included

flexible provisions, including minimized reporting and recordkeeping requirements and creating separate floors for specialty products.

Comments will be accepted through Dec. 31. Comments may be sent to <http://www.regulations.gov> in Docket ID No. EPA-HQ-OAR-2012-0313 for the heavy-duty engine rule and Docket ID No. EPA-HQ-OAR-2012-0816 for the plastics rule.

#### **For More Information**

The notice on EPA's review of diesel sulfur control requirements and the air toxics requirements for reinforced plastic composites production is available at <https://s3.amazonaws.com/public-inspection.federalregister.gov/2012-26794.pdf>.

For additional information on the heavy-duty engine rule, contact Tad Wysor in the EPA Office of Transportation and Air Quality at (734) 214- 4332 or [wysor.tad@epa.gov](mailto:wysor.tad@epa.gov).

Additional information on the plastics rule is available from Kim Teal in the Office of Air Quality Planning and Standards at (919) 541-5580 or [teal.kim@epa.gov](mailto:teal.kim@epa.gov).

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Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

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## Daily Environment Report™

Source: Daily Environment Report: News Archive > 2012 > October > 10/31/2012 > News > Water Pollution: EPA Plans Review of CAFO Regulations To Assess Impact on Small Businesses

210 DEN A-1

### *Water Pollution*

### **EPA Plans Review of CAFO Regulations To Assess Impact on Small Businesses**

*By Amana H. Saiyid*

The Environmental Protection Agency plans to review Clean Water Act regulations on concentrated animal feeding operations to determine whether the rules should be retained, amended, or withdrawn if they significantly affect small businesses.

In a notice scheduled for Oct. 31 publication, EPA said it would review the 2012 regulation, which clarifies that only those concentrated animal feeding operations that discharge are required to obtain National Pollutant Discharge Elimination System permits (77 Fed. Reg. 44,494; 51 DEN A-15, 3/16/11145 DEN A-8, 7/30/12).

EPA will review the CAFO regulations along with two other Clean Air Act rules under Section 610 of the Regulatory Flexibility Act (see related story).

Section 610 requires that an agency review a rule within 10 years of its promulgation to determine whether it has or will have a significant economic impact on a substantial number of small entities.

EPA said the purpose of the Section 610 reviews is to "decide whether the agency should continue a rule unchanged, amend it, or withdraw it."

The agency will seek comments until Dec. 30 on this review.

Specifically, EPA is seeking comment on:

- whether there is a "continued need" for the CAFO rule;
- the nature of complaints received on this rule;
- the complexity of the rule;
- the extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local government rules; and
- the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

### **Regulations in Court Since 2003**

The CAFO regulations have been mired in litigation since the agency promulgated requirements in 2003 that all CAFOs, regardless of whether they discharge, obtain NPDES permits, according to the Oct. 31 notice.

The 2012 rule in question is the result of lawsuits the original 2003 rule has faced from the livestock industry and the environmental community, according to EPA.

The 2012 rule was issued in response to a 2011 appeals court ruling over the 2008 rule, which said EPA will require NPDES permits for CAFOs that discharge or "propose to discharge" and will require voluntary certification for unpermitted operations (73 Fed. Reg. 70,418).

The U.S. Court of Appeals for the Fifth Circuit ruled in March 2011 that EPA could mandate discharge

permits only for operations that discharge pollutants (*National Pork Producers v. EPA*, 635 F.3d 738, 756 (5th Cir. 2011); 51 DEN A-15, 3/16/11).

EPA responded to the Fifth Circuit's ruling with its 2012 rule, eliminating the requirement that CAFOs that "propose to discharge" must obtain NPDES permits. EPA also removed the voluntary certification provision in the 2008 rule in the latest iteration of the CAFO rule.

EPA now wants to know whether the 2012 rule will affect small businesses. It is asking and encouraging small businesses to provide comments on the need to change these rules, and in particular, how the rules could be clearer or more effective, or if there is need to remove conflicting or overlapping requirements with other federal or state regulations.

EPA will accept comments identified by Docket ID No. EPA-HQ-OW-2012-0813 on <http://www.regulations.gov> for 60 days following the publication of this notice in the *Federal Register*.

#### **For More Information**

For more information about EPA's review of CAFO regulations, contact Hema Subramanian in EPA's Office of Wastewater Management at (202) 564-5041 or [subramanian.hema@epa.gov](mailto:subramanian.hema@epa.gov).

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Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

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## Daily Environment Report™

Source: Daily Environment Report: News Archive > 2012 > October > 10/31/2012 > News > Air Pollution: EPA Still Reviewing Information to Finalize Boilers Rule, Agency Tells D.C. Circuit

210 DEN A-1

### **Air Pollution**

### **EPA Still Reviewing Information to Finalize Boilers Rule, Agency Tells D.C. Circuit**

*By Jessica Coomes*

The Environmental Protection Agency has told a federal appeals court it was not able to finalize new emissions standards for boilers in the spring, as it intended, because the agency still is analyzing information it received after issuing the proposed rule nearly a year ago (*U.S. Sugar Corp. v. EPA*, D.C. Cir., No. 11-1108, *status report filed 10/29/12*).

EPA in an Oct. 29 status report did not say when it would finalize the rule for boilers. The status report was filed with the U.S. Court of Appeals for the District of Columbia Circuit.

EPA is trying to complete a rulemaking in which it is reconsidering national emissions standards for boilers issued in March 2011 under a court deadline. At the time, EPA said it would immediately begin reconsideration of those standards after the appeals court refused to give the agency the additional time it requested to work on the standards.

"EPA is still in the process of analyzing the data and information submitted in response to the proposed reconsideration rule, and ensuring coordination of this rule with related rulemakings," the agency said in its Oct. 29 status report. "Thus, EPA's administrative process is continuing."

An EPA spokeswoman told BNA she could not provide additional information about when the final rule would be released to the public.

The boiler rules, at 40 C.F.R. Part 63, address a number of pollutants, including mercury, hydrogen chloride, dioxins, and metals.

Litigation challenging the boilers rule has been held in abeyance since August 2011 while EPA promulgates reconsidered emissions standards. EPA is required to file status reports with the court periodically.

The final reconsideration rule has been under interagency review at the White House Office of Management and Budget since May 17. That review is typically the last step before rules are released (97 DEN A-2, 5/21/12).

EPA in December 2011 released the proposed reconsidered rules, saying they were based on new data that gave the agency a better understanding of the industry. For example, the proposed rule for major source boilers would replace numeric emissions limits for dioxins with work practice standards (76 Fed. Reg. 80,598).

EPA said the changes address concerns raised by industry and labor groups. EPA said at the time that 5,500 boilers—less than 1 percent of the 1.5 million boilers in the country—would be subject to the strict emissions limits. The rest of the boilers could implement work practice standards to comply or already are sufficiently clean, according to the agency.

### **For More Information**

The Oct. 29 status report in *United States Sugar Corp. v. EPA*, filed in the U.S. Court of Appeals for the District of Columbia Circuit, is available at <http://op.bna.com/env.nsf/r?Open=mdas-8zkqkg>.

## **Air Quality Alert Issued Due to Smoke**

By ABQnews Staff on Tue, Oct 30, 2012

POSTED AT: 12:13 pm

Albuquerque's Environmental Health Department's Air Quality Division issued a health alert today due to the smoke from the Chaparral controlled burn in the Jemez Mountains that has elevated particulate matter levels. The alert is in effect until 4 p.m. today.

The Chaparral controlled burn northwest of Jemez Springs continues today, with smoke drifting into Albuquerque. The light wind will likely continue to drift the smoke toward the city during the day.

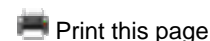
The City of Albuquerque Environmental Health Department recommends that all individuals take precautions when outdoors in areas when smoke is visible or can be smelled. During unhealthy periods, the following actions are recommended, especially for individuals sensitive to particulate pollution:

- Keep windows and doors closed. If needed for comfort, use air conditioners or heating systems on recycle/recirculation mode. Avoid using swamp coolers that can circulate outdoor air inside.
- Limit time spent outdoors.
- If symptoms of heart or lung disease occur, (including severe coughing, shortness of breath or difficulty breathing, wheezing, chest tightness or pain, palpitations, nausea or unusual fatigue or lightheadedness) contact your health care provider.
- Individuals with heart or lung disease should follow their health management plan from their health care provider. Asthmatic individuals should follow a prescribed asthma management plan. If conditions are creating a health emergency, call 911 or seek medical attention at the nearest medical facility.
- Avoid physical activity outdoors.
- Motorist use recirculated air while using air-conditioning during smoke events.

In areas with poor visibility of three to five miles, people with heart or lung disease, the elderly, children, and pregnant women should avoid prolonged or heavy exertion and stay indoors as much as possible. If you have symptoms of lung or heart disease that may be related to excess smoke exposure, including repeated coughing, shortness of breath or difficulty breathing, wheezing, chest tightness or pain, heart palpitations, nausea, unusual fatigue or lightheadedness, contact your health care provider. Also be sure you have the medicines needed for your chronic heart or lung problems.




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## AEP-PSO's deal with EPA criticized

BY ROD WALTON World Staff Writer

Tuesday, October 30, 2012

10/30/2012 4:19:58 AM

An industrial-size opponent of AEP-PSO's settlement with federal regulators over regional haze rules contends that the utility's deal was premature and will unnecessarily cost ratepayers billions of dollars over the long haul.

Tom Schroedter and Scott Norwood, representing the Oklahoma Industrial Energy Consumers group, said Monday that American Electric Power-Public Service Company of Oklahoma ditched a reasonable plan worked out in-state with fellow utility OG&E and state environmental officials. Instead, they said, AEP-PSO erred in favor of a costly agreement with the U.S. Environmental Protection Agency to shut down two coal-fired generation plans by 2026.

"We're urging them to delay this," Norwood said in exclusive interview with the Tulsa World.

The state's second largest utility filed testimony last month with the Oklahoma Corporation Commission asking for cost recovery methods to fund the environmental compliance plan. Both sides hope to start hearings by Feb. 26.

AEP-PSO officials estimated that the deal to cut sulfur dioxide and nitrogen oxide emissions could cost about \$350 million and increase base rates by 11 percent in four years.

AEP-PSO decided on a plan to shut one of its Oologah coal-fired plants by 2016. The second Oologah coal unit would be installed with emissions control equipment and retired by 2026.

Steven Fate, director of business operations support for AEP-PSO, said the utility's compliance plan tried to cover a lot of bases at once.

"What we're trying to do with the environmental compliance plan is come up with a comprehensive plan that dealt with both regional haze and mercury and air toxins," he said. "We thought it made sense to come up with a comprehensive plan."

The OIEC disagrees that the plan is a cost-effective solution. OIEC officials pointed out that OG&E, the state's largest utility, teamed with Oklahoma Attorney General Scott Pruitt on a lawsuit against the EPA and that the 10th U.S. Circuit Court of Appeals has issued a stay of the regional haze rules.

Utilities also won another reprieve in August when a federal appeals court in Washington, D.C., struck down the EPA's Cross-State Air Pollution rule. Both OG&E and AEP-PSO had battled that federal rule concerning emissions that cross state lines.

Given that a presidential race is pending, the OIEC leaders wondered why AEP-PSO was so eager to settle up with the EPA on regional haze.

"We think the settlement was premature in light of the stay entered by the 10th Circuit," Schroedter said.

The OIEC's assessment also challenges the utility's cost analysis. Norwood said AEP-PSO customers could be hit with rate increases from 14 percent to 25 percent and cost \$2 billion altogether in a tighter time frame.

The group also questions the utility's increasing reliance on natural gas in light of the coal-fired unit shutdowns. OIEC estimated the compliance plan's rate impact of gas prices at \$300 million by 2026, compared to less than \$100 million if AEP-PSO had stuck with its state implementation agreement forged

along with OG&E and the state Department of Environmental Quality.

"Fuel diversity is critical," Schroedter said. "That's all going out the window with this plan."

PSO's Fate, testifying before the Corporation Commission, estimated that the relative capital cost of using flue gas desulfurization equipment and other emissions controls on the coal-fired units at about \$900 million. The compliance plan only costs about \$256 million in relative capital, he said.

The cost of putting sulfur dioxide controls on the temporarily surviving coal-fired unit and nitrogen oxide controls of other gas-fired units is about \$350 million by 2016. Other costs will grow through the 2026 deadline to shutter the final coal-fired plant but will be meted out over a long period.

"We do our planning over a 40-year period," Fate said. "The \$2 billion is a pretty shocking number, but when you look at it as a percent of the total cost it's a fairly small number over 40 years."

OIEC represents companies that employ about 16,189 workers statewide, according to OIEC statistics. Schroedter estimated that AEP-PSO's largest industrial class uses about 20 percent to 25 percent of the power sold by the utility.


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**Original Print Headline: Industry group chides PSO over EPA plan**

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# Researchers will take a deep look at Gulf seafood safety

By Ingrid Lobet | Monday, October 29, 2012 | Updated: Tuesday, October 30, 2012 1:56pm

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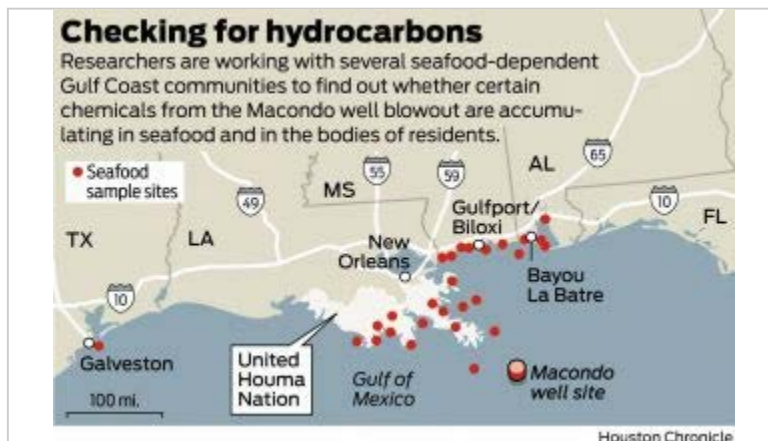
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The Macondo well blowout on the floor of the know about that great expanse of saltwater a Florida to Louisiana, some people have vital

Could hydrocarbons from the 2010 Deepwat through the seafood they commonly eat - br speckled trout and mackerel - and what does

"Right now, all we have is the FDA recomme are fishing communities," says Sharon Petro Texas Medical Branch and director of the Cc National Institute of Environmental Health Sc

At a research consortium centered in Galves Philadelphia, are recruiting 100 people each communities in Mississippi and Louisiana, ar will be asked to give blood and urine sample

each year who will give breast milk and umbilical cord blood once they deliver.

The researchers are looking for the family of compounds called polycyclic aromatic hydrocarbons, which dissolve in sometimes with harmful consequences.

## Fishing crews helping

If anything good can be said to have come from the ruin of the well blowout, it's that to a degree unmatched in the p questions about nature in the Gulf. Even now, universities continue sending scientists and graduate students out or

In a close collaboration that's still rare but becoming more common, fisher folk in Galveston, Gulfport and Biloxi in N United Houma Nation in Louisiana have been pulling fin and shellfish from the Gulf and handing them to researcher Louisiana State University and the University of Pennsylvania. The scientists are probing for petroleum fingerprints

"We're hoping to find nothing, but we've already found some things," said John Sullivan, director of public forums at Initial measurements show "modestly more" contamination in oysters and crabs from Alabama and Louisiana than i reach of the oil disaster.

They have not firmly fingerprinted this contamination as emanating from the Macondo well.

Now the research moves from fish and shellfish to humans.

## Toxicity questions

Chemicals that store away in fat merit scrutiny in part because when women's bodies make breast milk, they make milk.

Polycyclic aromatic hydrocarbons also have the ability to cross the placenta. But it's too early to say whether anything way into people's bodies, much less into their babies.

That's because until now, most research on this family of hydrocarbons has focused on those that are generated from Gulf when the Deepwater Horizon collapsed mostly never burned.

This study breaks new ground, says UTMB's Petronella Croisant, because it looks at these "petrogenic" or unburned

"The question is, are they similarly toxic?" asks Cornelis Elferink, a researcher and professor in the UTMB Department

Some polycyclic aromatic hydrocarbons are known to be carcinogenic.

"But it is very clear polycyclic aromatic hydrocarbons have a host of health effects other than cancer," says Trevor F and biophysics at the University of Pennsylvania. "We know they can be immuno-suppressive, which means they may

"That's a very important component. We also know there can be endocrine-disrupting properties. We know they carry hazards."

### Cells to be tested

But as sobering as that sounds, the researchers say they may discover that the human body successfully defends itself when it turns up in seafood.

Elferink points out that in order to be dangerous, the compounds first have to be available in a way the body recognizes. If they don't cause a response and are excreted, you have a substance that is nontoxic.

The good news is scientists believe they have a good test for this. It's a cell test in the lab. If certain specially engineered polycyclic aromatic hydrocarbons, Elferink says, the scientists know they probably are looking at a petroleum compound. They can calculate how much seafood a person would have to consume to see that effect.

"We don't have to wait 20-25 years for the cancer to appear," said the University of Pennsylvania's Penning.

In fact, the communities in Mississippi and Louisiana are asking the scientists for a briefing on the seafood part of the study they've committed to sharing the findings with them first.

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## Noxious weed fuels green-energy debate

Posted on October 31, 2012 at 7:37 am by [Matthew Tresaugue](#) in [Gasoline](#), [biofuels](#)



Chuck Barger of the University of Georgia stands amid giant reed, also known as arundo donax.

In the race to convert crops into energy, all eyes are on giant reed, a fast-growing and hardy grass species found throughout Texas and the southern United States.

Yet, the very qualities that make the species, also known as arundo donax, attractive to the federal government as a renewable fuel source make it a noxious weed, capable of choking native plants, clogging rivers and streams and draining wetlands.

Some scientists and environmentalists say the ecological and economic risks are greater than the reward and want the Environmental Protection Agency to reconsider a nearly finalized rule that would encourage farmers to grow giant reed and other invasive grasses for biofuels production.

"We think the idea of cleaner fuels is great," said Janice Bezanson, executive director of the advocacy group Texas Conservation Alliance, "but we do not want to create a monster."

## Invasive species

The conflict illustrates the complexity involved in reducing the nation's dependence on oil and gas with a new generation of biofuels that are made from algae, rice hulls, wild grasses and wood pellets rather than corn and other food crops.

The government also is counting on such fuels as a way to reduce emissions linked to global warming, a goal usually lauded by environmentalists.

This time, however, activists are warning that the use of invasive species may bring unintended consequences. Exotic species already cost the nation at least \$120 billion each year, according to the National Wildlife Federation, and nearly half of the threatened or endangered plants and animals in the United States are at risk, in part, because non-native pests have altered their habitats.

## Can't plant it in Texas

As benign and even lovely as it may seem, giant reed has menaced several states, including Texas, which classifies it as a noxious weed – a designation that means it cannot be planted in the state. Even then, the thirsty perennial, which can grow in dense stands as high as 30 feet, has taken hold, consuming large amounts of water from the Rio Grande and Pecos River and blocking the flow of the Nueces River.

The problem became so acute along a 30-mile stretch of the Nueces that landowners and other volunteers spent 11 weeks last year pulling arundo sprouts by hand. State and local officials also employed a helicopter to spray herbicide over nearly 200 acres.

In California, which also is battling giant reed, officials estimate the cost of eradication is between \$5,000 and \$25,000 an acre.

Giant reed is native to India and was introduced into the U.S. in the 1800s for erosion control. The plant can spread from a single underground stem or stalk fragments that grow roots and form new clones, typically along streams and irrigation canals.

Those opposed to the government's plan to grow the wily weed say the plant could escape and overrun nearby farms and natural lands. Instead they want the government to encourage the use of native plants and grasses that also provide habitat for wildlife.

"Arundo was designed to survive," said Wilfred Korth, a park ranger near Victoria and member of the Texas Aquatic Plant Management Society. "Every bit will create a new plant, and it chokes everything else out."

## 'Legitimate concerns'

Ironically, climate change could contribute to the spread of giant reed and other invasive species, which may have a competitive advantage in places disturbed by droughts, floods and other extreme events that scientists say will increase in intensity and frequency as the planet warms.

Joshua Yuan, a plant pathologist at Texas A&M University, said growing giant reed as a biofuel crop still could be safe if introduced under the right conditions.

"There are legitimate concerns because there is no natural enemy to mitigate the growth of arundo," Yuan said. "How you manage the crop is important."

The U.S. Department of Energy has awarded a \$1.8 million grant to Yuan to create a tobacco plant packed with terpenoids, a hydrocarbon that can be used for fuel. If the project is successful, he will receive \$2 million in additional funding to do the same with giant reed, a higher-producing species.

The research effort is part of the federal push to meet requirements set by the Bush administration, including the production of 21 billion gallons of biofuels a year by 2022. Analysts, however, say it is unlikely that goal will be reached, in part, because no one has shown that fuels from biomass, plant matter grown for energy use, can be made profitably.

Regardless, a group of more than 200 biologists and botanists urged the Obama administration last week to avoid using invasive species in the production of biofuels. Their concerns include the use of federal dollars to incentivize farmers to grow giant reed and even expand its cultivation into new areas.

"It is much cheaper and easier to take the steps to prevent an invasive escape than it is to deal with it after it has occurred," the scientists wrote in a letter to federal officials.

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## Assumption Parish sinkhole consumes more land, trees



In this undated photo provided by the Louisiana State Police via The Advocate, shallow wells will be drilled in the vicinity of the sinkhole that emerged Aug. 3 in Assumption Parish swamplands in Bayou Corne, La.. The wells will be used to monitor the amount of natural gas being carried by an underground aquifer atop the Napoleonville Dome near Bayou Corne. (Photo by AP Photo/Louisiana State Police via The Advocate)



By The Associated Press

on October 31, 2012 at 7:11 AM, updated October 31, 2012 at 7:20 AM

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**BAYOU CORNE --** Officials say a growing, **5.5-acre sinkhole** in northern Assumption Parish swamps gobbled up another strip of land on Tuesday.

John Boudreaux, director of the parish Office of Homeland Security and Emergency Preparedness, tells **The Advocate** trees fell in with the collapse, but no one was injured.

He said the collapsed area extended from a mat road that Texas Brine Co. of Houston has installed to clean trees, other vegetative matter and oil out the sinkhole to a point 80 feet north of the road.

The sinkhole is located between Bayou Corne and Grand Bayou south of La. Highway 70.

A failed underground brine cavern encased within a mountain of salt is believed to have caused the sinkhole, which appeared Aug. 3.



Daily News

## Environmentalists Criticize 'Weight Of Evidence' In EPA SIP Efficiency Plan

Posted: October 30, 2012

Environmentalists are criticizing EPA's "weight of evidence" method for states to use in assessing air quality benefit from energy efficiency projects include in state implementation plans (SIPs), calling it "deeply troubling" as they say it does not meet Clean Air Act requirements for what can be included in SIPs for meeting EPA air standards.

At a recent meeting of EPA's Clean Air Act Advisory Committee (CAAAC), one environmentalist told agency officials that if EPA allows states to use the approach in SIPs then environmental groups will likely file comments on those proposed SIP approvals criticizing the method. Adverse comment on a proposal could give the groups grounds to file lawsuits over the air plans in the event that the agency finalizes a plan relying on the approach.

The dispute centers on a provision in EPA's recent guidance, or "roadmap," on how states can earn credit for including in their SIPs energy efficiency and renewable energy (EE/RE) projects that cut air pollution.

At the CAAAC meeting Sept. 20 in Arlington, VA, EPA's Chris Stoneman said that while the guidance is "not a panacea," it is an effort to seize on the significant growth in state investments in EE/RE programs, the adoption of renewable energy portfolio standards in 29 states and the need for states to find additional options for emissions reductions to meet progressively stricter EPA national ambient air quality standards (NAAQS).

EPA officials have said that the guidance aims to ensure consistency in how states claim SIP credits for EE/RE projects and improve upon a Bush EPA guidance, which sources have said included burdensome modeling requirements, making it difficult for many states to seek credit for clean energy projects in the SIPs. At the CAAAC meeting, Stoneman said that EPA has not "had that many takers" for the Bush-era guidance.

But environmentalists have criticized EPA's use of a "weight of evidence" approach as one of several methods states can use to show the emissions-cutting potential of EE/RE measures, arguing that the approach does not guarantee the pollution cuts that the method might predict occurring as a result of the efficiency measures.

Weight of evidence demonstrations, the guidance says, "are generally a set of analyses of air quality, emissions, meteorological data and modeling data that state, tribal and local agencies can use as supporting evidence to show that attainment of a NAAQS is likely. . . . Results obtained with air quality models are an essential part of a [weight of evidence] determination and should ordinarily be very influential in deciding whether the NAAQS will be met."

EPA in the roadmap document says the method is available as an additional tool states can use to prove their attainment of NAAQS if they would otherwise be out of attainment by a very small margin -- but precludes use of the approach to claim credit under a SIP. A state might therefore use the weight of evidence approach to come into attainment, avoiding a nonattainment SIP and reducing the need for SIP credit.

### Roadmap 'Deeply Troubling'

Natural Resources Defense Council (NRDC) attorney John Walke -- a CAAAC member -- expressed concern about the approach both at the Sept. 20 committee meeting and in a February letter to EPA commenting on an earlier draft of the EE/RE guide. Calling the approach "unacceptable" and "deeply troubling," Walke argued in the letter that the approach fails to meet the four criteria that state measures must meet to qualify for SIP credit -- permanent, enforceable, quantifiable, and surplus to emissions reductions that would have occurred anyway.

"EPA itself acknowledges that the approach 'involves the least amount of documentation and analysis, [and] it also provides the most uncertain potential emissions reductions or air quality benefits for the SIP,'" Walke wrote, adding that "the documentation and analysis required by the [weight of evidence] approach provides no certainty that any of the four criteria for SIP measures will be met."

Examples of the use of weight of evidence determinations in other contexts "are fraught with uncertainty, and have often led to litigation, EPA SIP disapproval, or both," Walke claimed.

Walke told *Inside EPA* at the CAAAC meeting that EPA had yet to formally reply to his letter, but Stoneman broadly responded to Walke's criticisms at the meeting. Stoneman said the weight of evidence approach could help states overcome a "small discrepancy" in modeling results, and should be a last resort, not the first method of choice. He also said that the approach "is one you could contemplate after you have done your control strategy," one of the other methods in the guidance wherein states can introduce new regulations before submitting their SIP.

An EPA spokeswoman says the agency carefully considered Walke's letter in preparing the guidance, but that "the agency believes that the existing reporting and record keeping and/or other requirements in the guidance are sufficient to ensure the integrity" of the approaches. The spokeswoman also says that a weight of evidence demonstration "on its own would not yield formal SIP credit; however, an air agency can use it to provide emissions reductions in support of an attainment demonstration."

State air quality regulators are seeking clarity on how EPA will implement the EE/RE policy, with one source saying the success of the effort will partly depend on whether EPA's regional offices accept EE/RE measures in SIPs, as recommended under the guidance.

The regional offices are charged with approving or disapproving SIPs, and the source has serious doubts as to whether these offices will accept innovative EE/RE measures, adding that many state regulators may be reluctant to invest the time and resources required to include EE/RE measures in a SIP submission until this uncertainty is resolved.

### Key Questions

Chris James of the Regulatory Assistance Project (RAP), a nonprofit energy consulting group, outlined some key questions that states need answered when devising EE/RE measures in [a presentation](#) Oct. 1 at the fall meeting of the National Association of Clean Air Agencies in Stevenson, WA.

Those questions include how many megawatts of EE/RE projects are needed to reduce one ton of a pollutant or to improve air quality by 1 part per billion, and the level of success of states' current projects.

James also said that having flexibility to choose control measures and maximizing cost-effectiveness are key for states when choosing which EE/RE measures to implement, and that state air regulators need to better understand how state public utility commissions approve such projects.

The latter point was echoed by EPA's Robyn DeYoung at the CAAAC meeting, who said EPA is seeking to promote cooperation between environmental and energy regulators at the state level who are not necessarily used to working together.

In a related development, the American Council for an Energy-Efficient Economy (ACEEE) released a report Oct. 3 ranking states for their efficiency programs, with Massachusetts, California, New York and Oregon leading the pack. The study ranks states according to the scope and budget of their efficiency initiatives, rather than actual energy efficiency achieved.

In a statement issued with the new report, ACEEE Executive Director Steven Nadel said, "These findings show that energy efficiency is being embraced by Republicans and Democrats alike at the state level." Nadel said this bipartisan consensus shows "the false premise that the only way to safeguard our reliable energy future is to expand our supply." -- *Stuart Parker* ([sparker@iwpnews.com](mailto:sparker@iwpnews.com))

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## Former EPA Chief Al Armendariz Said Frackers Lit a Well on Fire, So the Frackers Lawyered Up

By Brantley Hargrove Tue., Oct. 30 2012 at 3:13 PM  
Categories: [Biz](#), [Legal Battles](#)



Al Armendariz, as imagined by Range Resources chief counsel David Poole.

Range Resources, a company that fracks shale formations across America, wants controversial former EPA regional chief Al Armendariz to shut up about what happened in Parker County. The company's lawyer sent him a [letter](#) recently insisting that "(he) cease from making further false and disparaging comments against Range."

Armendariz spoke at a recent Society of Environmental Journalists conference in Lubbock. He told attendees he had not seen any evidence to contradict an EPA finding that Range's fracking activities contaminated a nearby water well -- a claim that's at the center of a lengthy fight between the EPA, Range, the Texas Railroad Commission and a man whose well turned to fire.

If you'll recall, a Parker County man's well began drawing huge amounts of gas, so much that he could light a hose attached to the head space of the well and ignite a guttering tongue of fire. Armendariz's EPA investigators conducted testing and discovered levels of benzene, a known carcinogen, above drinking-water standards. Gas wells owned by Range Resources were determined to be the source. The Railroad Commission of Texas, when contacted by the EPA, said more testing was needed.

The agency moved forward with an endangerment order against Range -- the first of its kind in the history of Texas oil and gas. The Railroad Commission, at a hearing where only Range experts testified, later exonerated the company, which is currently suing the Parker County man.

EPA later withdrew its endangerment order against Range. It was never clear whether the agency became convinced it got the case wrong, or if it simply decided to put an end to litigation with Range. Either way, Range agreed to conduct testing of surrounding water wells for a year. Armendariz later resigned after Oklahoma Senator James Inhofe circulated a years-old video of the administrator discussing his [deterrent approach to enforcement](#).

His comments at the conference shed just a little light on EPA's decision to withdraw its order against Range: "The best available data that I was presented by my staff indicated that the driller's [Range's] natural gas was ending up in a private drinking water well. ... I've not seen, and when I withdrew our enforcement action I didn't see, anything to the contrary. ... But we do live in a very litigious society. It had been in court for more than a year going on two. I felt a better course of action would be to talk to Range about a potential settlement where we would withdraw our enforcement action and they would commit to doing additional monitoring in Parker County."

I wrote a [long story](http://www.energyindepth.org/wp-content/uploads/2012/10/Range-Letter-To-Armendariz.pdf) a while back about Steve Lipsky's flaming well. You can read the letter in its entirety [here](http://www.energyindepth.org/wp-content/uploads/2012/10/Range-Letter-To-Armendariz.pdf). (<http://www.energyindepth.org/wp-content/uploads/2012/10/Range-Letter-To-Armendariz.pdf>)